

Overview of Chapter 1

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1.0 Introduction

In July 1994, the Indiana Department of Environmental Management (IDEM) decided that all of its cleanup programs should work together to develop consistent standards and procedures. As a result, IDEM has developed a comprehensive set of policies known as the Risk-Integrated System of Closure (RISC). RISC is a guidance policy and does not have the force of law; rather, it provides a framework within which to implement the laws and rules governing the remediation of sites in Indiana. RISC represents an extensive effort on the part of IDEM staff and external stakeholders to establish consistent standards across existing remediation programs while at the same time recognizing the unique requirements of each program. Consistent with this goal, RISC consists of two volumes. The [RISC Technical Guide](#) sets forth policies and procedures applicable to all of IDEM's remediation programs.

This User's Guide provides information on the use of RISC within each of the existing remediation programs: the Resource Conservation and Recovery Act (RCRA) Closure and Corrective Action Program, Subtitle C; the Leaking Underground Storage Tank (LUST) Program; the Voluntary Remediation Program (VRP); the State Cleanup Program (SCP), and the Brownfields Program. The User's Guide is designed to assist the Office of Land Quality's remediation programs in using a consistent, risk-based approach for addressing contaminated sites in compliance with regulatory requirements. The User's Guide is divided into five chapters. Each chapter provides details on individual program processes and the applicability of RISC to that program.

It should be noted that spill responses performed in accordance with 327 Indiana Administrative Code (IAC) 2-6.1 are not remedial actions and will not utilize RISC. If the spill response does not result in the complete removal of the released material, the incident may be turned over to the appropriate remediation program for further work. At that time, RISC would be applicable.

1.1 RCRA Closure and Corrective Action, Subtitle C

RCRA was enacted in 1976 as an amendment to the Solid Waste Disposal Act (SWDA). Federal regulations to implement RCRA were adopted in 1980. Indiana has adopted the federal regulations specified in [329 IAC 3.1](#). The principal objective of RCRA is "cradle-to-grave" management of hazardous wastes, from the point of generation

through final disposition. A primary component of RCRA is the issuance of permits to facilities that store, treat, or dispose of hazardous wastes to ensure proper management of hazardous waste, and to ensure closure of inactive hazardous waste facilities and post-closure care of closed units, if required. Regulatory requirements applicable to permitting, closure, and post-closure of hazardous waste management units are presented in Title 40 of the *Code of Federal Regulations* (40 CFR), [Parts 264, 265, and 270](#). These requirements are incorporated by reference into [329 IAC 3.1-9-1](#), [329 IAC 3.1-10-1](#), and [329 IAC 3.1-13-1](#), respectively.

In 1984, RCRA was amended by the Hazardous and Solid Waste Amendments ([HSWA](#)) to give the U.S. Environmental Protection Agency (U.S. EPA) authority to require treatment, storage, or disposal (TSD) facilities (including facilities no longer operating as TSDs and facilities that have or had interim status) to investigate and remediate contamination resulting from any activity at the facility, even if the activity preceded the enactment of RCRA. This investigation and remediation process is known as “corrective action.” Under the corrective action process, TSD facilities are required to implement corrective action for all releases of hazardous waste or constituents that may cause a threat to human health or the environment. Corrective action can also be required for releases of hazardous waste or constituents that have migrated beyond the owner or operator’s property boundary.

RISC supplements RCRA closure and corrective action standards by providing guidance in determining the cleanup levels necessary to control, minimize, or eliminate threats to human health and the environment. If further maintenance is necessary to control or minimize a threat to human health or the environment, the RCRA program initiates post-closure care requirements. Closure and post-closure standards are specific to the type of TSD unit, such as tanks, containers, waste piles, surface impoundments, and landfills.

1.2 LUST Program

In 1988, the scope of RCRA was broadened to include the regulation of most underground storage tanks ([UST](#)) containing petroleum and hazardous substances. Subsequently, the U.S. EPA promulgated rules in [40 CFR, Part 280](#), to prevent and minimize the impact of releases from USTs through the use of corrosion protection, spill and overflow prevention, leak detection, and corrective action. Indiana enacted [Indiana Code \(IC\) 13-23](#) (modeled after RCRA regulations) for petroleum and hazardous substances. IDEM then promulgated [329 IAC 9](#) to provide standards for regulating UST operation and

maintenance, corrective action, and closure. Later, the Indiana Legislature established the Excess Liability Trust Fund (ELTF) to reimburse UST owners and operators for the costs of corrective action through the assessment of annual fees for eligible regulated USTs.

IDEM's LUST Program receives release reports for regulated and unregulated tank owners and oversees compliance with corrective action and closure requirements for petroleum and hazardous substance releases. Hazardous waste release reports are referred to the RCRA Closure and Corrective Action Program for follow-up.

Typical UST sites include petroleum storage and dispensing facilities (such as gas stations), fleet fueling facilities, industrial manufacturers, and government installations. Federal regulations place liability for the costs of remediation on tank owners and operators.

RISC provides a set of preapproved procedures and cleanup goals designed to streamline a LUST Program participant's interaction with IDEM. This guidance should enable participants to better evaluate their options, facilitate cleanups, and receive ELTF reimbursements.

No further action (NFA) letters are issued by the LUST Program upon conclusion of permanent closure. Risk-based closure letters are issued for releases addressed under the exposure-prevention closure option.

1.3 VRP

The VRP was established in 1993 in response to a growing need for State review and oversight of voluntary investigation and remediation activities, particularly with respect to property transactions. IC 13-25-5, Voluntary Remediation of Hazardous Substances and Petroleum, created the VRP and gave IDEM broad authority to establish guidelines for the approval of remediation work plans. Indiana is therefore one of the first states to pass legislation that addresses liability issues associated with buying, selling, or developing property contaminated by petroleum or hazardous substances. The agency's guidelines include provisions for using risk assessments to determine cleanup goals.

The VRP provides a process for property owners, operators, and potential purchasers to voluntarily enter into an agreement with IDEM to remediate contaminated property. When the remediation is successfully completed, IDEM issues a Certificate of Completion and the Governor's office issues a Covenant Not To Sue to the applicant for the remediated property. These documents assure both the applicant and future land owners that the voluntary remediation has

been performed properly and that associated future liability is strictly limited. This assurance is important to prospective property purchasers and prospective lenders when property is being offered as collateral. Active participation in the VRP may facilitate the sale and reuse of industrial and commercial properties in the State, an important benefit to all Indiana residents. In addition, a memorandum of agreement between IDEM and U.S. EPA provides some assurance that U.S. EPA will also not pursue an enforcement action.

Any site, regardless of its operational status, is eligible to participate in the VRP program unless one or more of the situations below applies.

- A state or federal enforcement action concerning the proposed cleanup is pending.
- A federal grant compels IDEM to take enforcement action.
- Conditions at the site are considered to present an imminent and substantial threat to human health or the environment.
- The VRP application is incomplete.

Participants are required to pay for VRP costs.

The VRP process is expanded via RISC by providing procedures for site characterization and sampling as well as guidance for nondefault approaches. This expanded guidance is intended to further facilitate the VRP process as well as reduce transactional costs for participation in the program.

1.4 SCP

The SCP is similar to the federal Superfund program except it is solely a State program and not a joint federal and state effort. It also differs from the Superfund Program because it provides for jurisdiction over petroleum releases as well as hazardous substance releases. Examples of SCP sites include active or abandoned petroleum terminals and refineries, abandoned landfills, former lead smelting and battery recycling sites, and other active or abandoned industrial sites. SCP sites are evaluated using the Indiana Scoring Model (ISM), which is discussed in [329 IAC 7-1](#). The list of SCP sites is published in the Indiana Register as part of the [Indiana Commissioner's Bulletin](#). Responsible parties and the State's [Hazardous Substances Response Trust Fund](#) provide funding for these cleanups.

The legal authority for the SCP includes Indiana's "Superfund" law,

the Hazardous Substances Response Trust Fund statute ([IC 13-25-4](#)). The law establishes a fund to clean up sites contaminated with hazardous substances, establishes liability for potentially responsible parties, and authorizes IDEM to recover costs associated with cleanups. [IC 13-24-1](#) governs petroleum releases and authorizes IDEM to require cleanup of petroleum contamination.

[IC 13-25-4](#) states that IDEM can recover the costs of removal or remedial actions consistent with the National Oil and Hazardous Substances Pollution Contingency Plan ([NCP](#)). The RISC policies supplement the NCP by providing a designated system for screening a site, assessing risk, and establishing closure levels.